

State Board of Elections Policy 2023-001

A meeting of the State Board of Elections was held on August 15, 2023, during which the following policy was proposed by the Department of Elections and approved by the State Board of Elections:

COUNTING AND REPORTING RESULTS OF ABSENTEE BALLOTS FROM A CENTRAL ABSENTEE PRECINCT

PURPOSE: To establish a policy: (i) stating requirements related to pre-processing absentee ballots received prior to Election Day and processing absentee ballots on Election Day, and (ii) directing the Department of Elections to post the results of all absentee ballots cast during an election no later than noon on the seventh calendar day following an election (“Policy”).

REFERENCES: Va. Code §§[24.2-103\(A\)](#), [24.2-105.1](#), [24.2-603](#), [24.2-667.1](#), [24.2-709\(B\)](#), [24.2-709.1](#), and [24.2-712](#); Va. Admin. Code [1VAC20-70-40](#); Governor’s Acts of Assembly [Chapter 152](#); [State Board of Elections Delegations](#)

GENERAL REQUIREMENTS AND POLICY ESTABLISHMENT

Pursuant to Chapter 152 of the 2023 Acts of Assembly, the State Board of Elections must adopt a policy regarding the counting and reporting of absentee ballots in a central absentee voter precinct to ensure that:

- (i) The results of absentee ballots cast early in person are reported separately from mailed absentee ballots and are posted promptly on the State Board [of Election] website;
- (ii) The results of all absentee ballots cast by voters are reported by precinct in accordance with § 24.2-667.1 of the Code of Virginia; and,
- (iii) The results in (ii) are posted no later than noon on the seventh calendar day following the election on the State Board of Elections website.

The statute directs the State Board of Elections to adopt the policy no later than September 1, 2023, and to notify the Chairmen of the House and Senate Committee on Privileges and Elections within seven business days of its adoption.

The State Board of Elections hereby adopts the following Policy:

I. COUNTING ABSENTEE BALLOTS FROM THE CENTRAL ABSENTEE PRECINCT

A. Pre-Election Day:

Pursuant to §24.2-709.1 and 1VAC20-70-40, absentee ballots received by the general registrar prior to Election Day shall be pre-processed, beginning no later than the seventh day prior to

Election Day, and ending on the Monday prior to Election Day.¹

Primarily, the term “pre-processing” refers to the pre-Election Day process of removing absentee ballots from their “B Envelopes” and inserting those ballots into scanning equipment *without* initiating ballot count totals. Pre-processing must occur at a “pre-processing meeting.”

Pre-processing has two distinct periods with different obligations:

1. **Period 1: First day of absentee ballot voting through the Monday before the election.**

- a. During this period, the general registrar’s office is not obligated to pre-process absentee ballots (i.e. to hold a pre-processing meeting to run those ballots onto scanning equipment). However, many localities may wish to schedule pre-processing meetings during this period to reduce the workload as Election Day approaches.

2. **Period 2: Beginning the seventh day before the election.** Each locality *must* hold two mandatory pre-processing meetings on the following days:

- a. **On the Tuesday preceding an election:** The purpose of this meeting is to insert into the scanning equipment all absentee ballots received in their possession.
 - i. If localities can pre-process all absentee ballots that were received *up until* the Tuesday proceeding Election Day, then they **do not** need to hold another pre-processing meeting until either the Friday or Saturday before Election Day.
 - ii. If they are **not able** to pre-process all absentee ballots that were received in their possession by the Tuesday before Election Day, then the locality must continue to meet daily until they pre-process all absentee ballots received by their office as of the Tuesday before Election Day.
- b. **Friday or Saturday before an election:** The purpose of this meeting is to pre-process any absentee ballots received since the pre-processing meeting held on Tuesday.
 - i. If a locality can pre-process all the absentee ballots in their possession as of the date of this meeting, then they **do not** need to hold another pre-processing meeting.
 - ii. If a locality is **not able** to pre-process all the absentee ballots in their possession as of the date of this meeting, then they should plan to hold a meeting on the Monday before Election Day.

3. **Pre-processing General Requirements:**

- a. **Officers of Election attendance requirement:** Pursuant to §24.2-709.1 at least *two* officers of election, one representing each political party, must be

¹ Va. Code §24.2-709.1; Va. Admin. Code 1VAC20-70-40.

present at all pre-processing meetings. If circumstances prevent a general registrar from complying with this requirement, such failure shall not be grounds for contesting the election and shall not invalidate the absentee ballots.²

- b. **Political Party Chairs attendance requirement:** Even if localities are having a primary for only one party, they must give notice to **both** political party chairs of the times and places for each pre-processing meeting in sufficient time to allow for the authorized party representatives to be present.³
- c. No person present while sealed ballot envelopes are opened, and ballots are inserted into scanning equipment shall disclose any information concerning the ballots.

B. **Election Day:**

The Central Absentee Precinct (CAP) is established on Election Day to process any in-person absentee ballots not yet processed, absentee ballots received by the CAP on Election Day, and absentee ballots received at drop-off locations on Election Day.⁴

1. Pursuant to §24.2-712, the CAP will be open at 6:00 A.M. on Election Day or later at the discretion of the general registrar, provided all other statutory requirements are met; the CAP will close when the polls in the county or city close and shall proceed promptly to ascertaining and recording the results of the processed absentee ballots.⁵
2. Pursuant to §24.2-712, any absentee ballots that need to be hand counted, e.g. qualified absentee ballots that were rejected by the electronic voting system or Federal Write-in Absentee Ballots, are to be tallied at any time after noon, 12:00 P.M., on Election Day.⁶
3. Localities should continue to process all absentee ballots throughout Election Day or until 7:00 PM, whichever comes first.⁷
 - a. If absentee ballots need to be processed after the close of polls, those ballots will be included in the Post-Election Central Absentee Precinct and precinct-level breakdowns. This includes ballots postmarked on Election Day which are processed after Election Day but received before noon on the third day following an election, pursuant to §24.2-709(B).⁸

II. **REPORTING RESULTS OF ABSENTEE BALLOTS FROM THE CENTRAL ABSENTEE PRECINCT**

- A. After the polls have closed at 7:00 PM, localities will initiate ballots totals.⁹

² Va. Code §24.2-709.1

³ Virginia Administrative Code 1VAC20-70-40 (6)

⁴ Va. Code §24.2-712.

⁵ Va. Code §§24.2-712(E), (G).

⁶ Va. Code §24.2-712(D).

⁷ Va. Code §§24.2-603, -712(E).

⁸ Va. Code §24.2-709(B).

⁹ Va. Code §24.2-712(E).

1. The *consolidated total* of both in-person and mailed-in absentee ballots, processed as of Election Day, will be entered into the election night reporting system on the night of the election.
2. The election night reporting system will allow for the number of absentee ballots received in-person during early voting and the number of absentee ballots received by mail to be reported separately pursuant to §24.2-667.1.¹⁰

On the night of the election, the consolidated totals will be separated by precinct as time allows. All absentee ballot totals by precinct will be provided by no later than noon, 12:00 P.M., on the seventh day following the election.¹¹

- B. Based on locality inputs, the Department of Elections will post these separated absentee ballot results on its website for the public.¹²
- C. The Department of Elections will provide guidance documents to all localities regarding the standards and processes for the CAP including how to enter results in the electronic voter registration system, before every election.

III. REPORTING THE RESULTS OF ALL ABSENTEE BALLOTS CAST BY VOTERS IN AN ELECTION ON THE DEPARTMENT OF ELECTIONS WEBSITE

The State Board of Elections has delegated authority to the Department of Elections to maintain a website where results for each election will be posted for the public.¹³ This includes the results of all absentee ballots cast in an election pursuant to §§24.2-105.1 and 24.2-667.1.¹⁴ To ensure prompt reporting of these results, the Department of Elections will post the results of all absentee ballots cast in an election to its website no later than noon, 12:00 P.M., on the seventh day following an election, pursuant to §24.2-667.1.¹⁵ The Department of Elections will provide guidance to localities regarding this policy to ensure that the reporting deadline is met.

EFFECTIVE DATE: This policy will become effective immediately upon adoption by the State Board of Elections. Upon adoption, this policy will be posted on the Virginia Regulatory Town Hall website and on the Department of Elections' website as soon as practicable. Notice of adoption of the Policy shall be sent to the Chairmen of the House and Senate Committee on Privileges and Elections within seven business days of its adoption.

¹⁰ Va. Code §24.2-667.1.

¹¹ Va. Code §24.2-667.1; 2023 Acts of Assembly Chapter 152.

¹² Va. Code §§ 24.2-105.1, -667.1.

¹³ Va. Code §24.2-105.1, -667.1; *See also* State Board of Elections Guidance Documents, Delegations, <https://townhall.virginia.gov/L/gdocs.cfm?agencynumber=132>.

¹⁴ Va. Code §§24.2-105.1, -667.1

¹⁵ 2023 Acts of Assembly Chapter 152